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April 6, 2016

The Honorable Sylvia Mathews Burwell
U.S. Department of Health and Human Services
200 Independence Avenue, SW
Washington, D.C. 20201

Andy Slavitt, Acting Administrator
Centers for Medicare and Medicaid Services
200 Independence Avenue, SW
Washington, D.C. 20201

Dear Secretary Burwell and Acting Administrator Slavitt:

On behalf of the Medicare Rights Center (Medicare Rights), I am writing to express support for the Centers for Medicare and Medicaid Services (CMS) proposal to test value-based payment strategies for prescription drugs covered under Medicare Part B. Medicare Rights is a national, nonprofit organization that works to ensure access to affordable health care for older adults and people with disabilities through counseling and advocacy, educational programs, and public policy initiatives. Our organization provides services and resources to over two million Medicare beneficiaries, family caregivers, and professionals annually.

Medicare Rights remains strongly supportive of commitments made by the U.S. Department of Health and Human Services and CMS to transition Medicare to a high-value health care system, through testing and innovations intended to enhance health care quality and lower costs. CMS' proposed test is aligned with these goals, and we believe that it is within the statutory charge and authority of the Center for Medicare and Medicaid Innovation (CMMI) to test the payment and delivery system models included in the proposal.

As defined in statute, CMMI initiatives are intended to address documented "…deficits in care leading to poor clinical outcomes or potentially avoidable expenditures." Through over two decades of experience counseling people with Medicare and their families, we can attest that CMS' proposal has the potential to alleviate persistent "deficits in care." Medicare Rights regularly serves older adults and people with disabilities unable to afford the 20 percent coinsurance for costly Part B medications. Most often, these are individuals among the 14

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percent of people with Medicare who lack adequate supplemental coverage.[1] Part B medications, commonly used to treat cancer, macular degeneration, anemia, and arthritis, tend to be very expensive. According to a recent analysis, some beneficiaries spend as much as $107,000 per year on Part B medications, and in 2015 the Medicare program spent $22 billion on these prescription drugs.[2]

We share CMS' concern that the current Part B prescription drug reimbursement model, determined by Average Sales Price (ASP) plus six percent, establishes a perverse incentive to prescribe higher cost medications.[3] By testing a variety of reimbursement methods and value-based purchasing innovations already in use in the private insurance market, the proposed test will promote utilization of the most clinically effective medications—not the most costly. We applaud CMS for proposing to test multiple strategies to encourage the use of high-value medications, especially those that eliminate or lower beneficiary cost sharing and promote the adoption of evidence-based clinical decision support tools.

As the proposed payment models are implemented, we are confident that people with Medicare will retain access to needed Part B medications. CMS' proposal realigns financial incentives to encourage the use of treatments empirically shown to improve health outcomes—it does not limit health care providers from prescribing as warranted by individual circumstances. Toward this end, the proposal incorporates many essential consumer protections, particularly for the value-based pricing strategies new to the Medicare program. For example, the proposal prohibits balance billing under a reference pricing scheme, requires an established and transparent evidence-base for indication-specific pricing, and sets up a pre-appeals process allowing prescribers, suppliers, and beneficiaries to request exceptions to payment under the value-based pricing tools.

We thank CMS for releasing the Part B prescription drug payment model through notice and comment rulemaking, allowing 60 days to solicit input from diverse stakeholders on the model design, scope, and timeline for incorporation in the final program. Medicare Rights will submit detailed comments, focusing on the need to include appropriate beneficiary education and notice, ensure that the mechanics of the pre-appeals exceptions process are truly accessible to consumers, and establish appropriate monitoring for potential changes in prescribing and dispensing practices, including those that may shift costs between parts of Medicare.

Additionally, as with all CMMI initiatives, we strongly encourage CMS to continuously engage and involve beneficiaries and consumer advocates as the Part B prescription drug model is further developed and implemented. CMS must establish adequate, real-time feedback loops to monitor beneficiary experiences with the program, drawing on existing resources like the Medicare Ombudsman, 1-800-MEDICARE, and the State Health Insurance Assistance Programs (SHIPs), among others.

In closing, we are confident that CMS' proposed payment model will preserve beneficiary access to needed prescription drugs, while also advancing innovative strategies to ensure that people who need Part B

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[1] Cubanski, J., Swoope, C., Boccuti, C., Jacobson, G., Casillas, G., Griffin, S., and T. Neuman, "A Primer on Medicare: Key Facts About the Medicare Program and the People it Covers, What types of supplemental insurance do beneficiaries have?" (March 2015), available at: http://kff.org/report-section/a-primer-on-medicare-what-types-of-supplemental-insurance-do-beneficiaries-have/

[2] Government Accountability Office (GAO), "Expenditures for New Drugs Concentrated among a Few Drugs, and Most Were Costly to Beneficiaries," (October 2015), available at: http://www.gao.gov/assets/680/673304.pdf; Medicare Program; Part B Drug Payment Model, Proposed Rule Vol. 81, No. 48 Federal Register 42 CFR Part 511

[3] For example, see: Whoriskey, P., Keating, D., and L.H. Sun, "Cost of drugs used by Medicare doctors can vary greatly by region, analysis finds, (April 19, 2014) *Washington Post*, available at: https://www.washingtonpost.com/business/economy/cost-of-drugs-used-by-medicare-doctors-can-vary-greatly-by-region-analysis-finds/2014/04/09/69ac93f0-c024-11e3-b574-f8748871856a_story.html; Jacobson, M. et al., "Does Reimbursement Influence Chemotherapy Treatment for Cancer Patients?" (March 2006) *Health Affairs* Vol. 25, No. 2, available at: http://content.healthaffairs.org/content/25/2/437.full

medications receive the highest value care available to them. We believe the proposal can yield results meaningful to today's beneficiaries, through enhanced care quality, and to future generations, through a stronger and more sustainable Medicare program. We urge you to move forward with the proposed model, and we look forward to working with CMS as the proposal evolves.

If you have questions or need additional information, please contact Stacy Sanders, Federal Policy Director, at ssanders@medicarerights.org or 202-637-0961. Thank you.

Sincerely,

Joe Baker
President
Medicare Rights Center

CC: Patrick Conway, Acting Principal Deputy Administrator, Deputy Administrator for Innovation and Quality, Chief Medical Officer, Centers for Medicare and Medicaid Services
Tim Gronniger, Director of Delivery System Reform, Centers for Medicare and Medicaid Services
The Honorable Orrin Hatch, Chairman, U.S. Senate Committee on Finance
The Honorable Ron Wyden, Ranking Member, U.S. Senate Committee on Finance
The Honorable Fred Upton, Chairman, U.S. House Committee on Energy and Commerce
The Honorable Kevin Brady, Chairman, U.S. House Committee on Ways and Means
The Honorable Frank Pallone, Ranking Member, U.S. House Committee on Energy and Commerce
The Honorable Sander Levin, Ranking Member, U.S. House Committee on Ways and Means